



PLANNING COMMISSION STAFF REPORT JANUARY 24, 2013

Project:	FREMONT GATEWAY PLANNED DISTRICT (PLN2012-00243)
Proposal:	To consider Preliminary and Precise Planned District P-2012-243, Vesting Tentative Tract Map No. 8177, a Private Street, and a Preliminary Grading Plan to facilitate the development of 63 new detached residential units.
Recommendation:	Recommend approval to the City Council.
Location:	34044 Fremont Boulevard, 3800 and 3858 Beard Road in the North Fremont Community Plan Area; APNs: 543-0336-024-00, 543-0336-023-00, and 543-0336-029-00 (See aerial photo next page)
Area:	4.6 net acres
People:	Jim Meek, Tim Lewis Communities, Applicant Fremont Beard, LLC, Property Owners Hope Evangelical Lutheran Church, Property Owners Clifford Nguyen, Staff Planner (510) 494-4769; cnguyen@fremont.gov
Environmental Review:	A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act (CEQA).
General Plan:	Medium Density Residential (14.6-29.9 du/ac) for approximately 2.8 acres; and Low Density Residential (8.8-14.5 du/ac) for approximately 1.9 acres.
Zoning:	Existing: R-3-23, R-3 Multi-family Residence District for approximately 2.8 acres; and R-1-6, Single-family Residence District for approximately 1.9 acres. Proposed: Precise Planned District, P-2012-243

EXECUTIVE SUMMARY

The applicant, Tim Lewis Communities, requests approval of Preliminary and Precise Planned District P-2012-243, Vesting Tentative Tract Map No. 8177 and other accompanying land use approvals to allow the development of 63 new detached residential units on a 4.6-acre (net area) site at the northeast corner of Fremont Boulevard and Beard Road. The project would be constructed in two phases with the eventual removal of all existing structures on-site, approximately 35,000 cubic yards of total grading, public street improvements along the Beard Road and Fremont Boulevard frontages, and retention of an existing evergreen ash tree within a proposed common open space. Staff recommends approval of the proposed project to the City Council, based on findings and subject to conditions.

Figure 1: Aerial Photo (2009) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North, West: Single-family residential

South: Retail commercial uses

East: Multi-family residential

BACKGROUND AND PREVIOUS ACTIONS

The subject site is comprised of three parcels totaling 4.7 gross acres (or 4.6 net acres). There is an existing roadside market located at the corner of Beard Road and Fremont Boulevard on a 0.8-acre parcel, which has been occupied since 1955. The Hope Evangelical Lutheran Church was constructed in the late 1970s and is located on a 1.93-acre parcel. In December 2011, the roadside market, former house and barn (all of more than 50 years of age) were subject to historical evaluation and found not to be eligible for California Register of Historic Resources (or “California Register”) by the City of Fremont Historic Architectural Review Board.

On January 10, 2013, the Planning Commission continued this item due to a public hearing noticing error.

PROCEDURE FOR TONIGHT’S HEARING

At tonight’s hearing, the Planning Commission is charged with completing four primary tasks:

1. Consider adoption of the Mitigated Negative Declaration and Mitigation Monitoring Plan and find this action reflects the independent judgment of the City of Fremont per Section 15074 of the CEQA Guidelines.
2. Consider request for approval of the proposed Preliminary and Precise Planned District P-2013-243, based on findings specified in Section 8-21813 of the Fremont Municipal Code (FMC) to permit the development of 63 new detached residential units and retention of an evergreen ash tree.
3. Consider request for approval of Vesting Tentative Tract Map No. 8177 based on findings specified in FMC Section 8-1418 to permit the subdivision of land for 63 residential lots, common area lots and associated infrastructure improvements.
4. Consider request for approval of a Preliminary Grading Plan based on findings specified in FMC Section 8-4109 to permit 35,000 cubic yards of total grading (5,000 cubic yards of cut and 30,000 cubic yards of fill).

PROJECT DESCRIPTION

The project consists of a Preliminary and Precise Planned District, Vesting Tentative Tract Map No. 8177, a Private Street, and a Preliminary Grading Plan to facilitate the development of 63 new detached residential units. Development of the project is proposed in two phases: the first phase would include 45 units to be constructed in the summer of 2013; and the second phase would include 18 units on the portion of the project site currently occupied by Hope Evangelical Lutheran Church at a time yet to be determined. The plan calls for the eventual removal of all existing site structures, approximately 35,000 cubic yards of total grading, public street improvements along the Beard Road and Fremont Boulevard frontages, and retention of an existing evergreen ash tree within a proposed common open space. The project would be accessed from Beard Road and served internally by a network of vehicular and pedestrian systems in the form of a loop private street with monolithic walkway connected to motor courts and centrally located doubled-loaded paseos. All homes would be three stories and detached with

19 designed as front-loaded units (entrance and garage facing street) and 44 as rear-loaded units (garage facing the rear of unit). A large centralized common open space containing the evergreen ash tree would be approximately 5,500 square feet in size.

PROJECT ANALYSIS

General Plan Conformance

The two General Plan land use designations for the project site are Medium Density Residential, 14.6-29.9 units per net acre (approximately 2.8 acres); and Low-Medium Density Residential, 8.8-14.5 units per net acre (approximately 1.9 acres). The proposed project would be consistent with the existing General Plan land use designations because the applicant proposes a Planned District to allow for the blending of residential land use densities that would achieve an overall project density of 13.7 units per net acre. The project density would be consistent with the permitted density range derived from the mixed underlying land use designations by establishing 63 units where a minimum of 58 units would be required. In addition, the project would be consistent with the following General Plan policies and implementation measures:

LAND USE POLICY 2-1.11: Infill Emphasis – *Focus new development on under-developed or “skipped-over” sites that are already served by infrastructure and public streets.*

LAND USE POLICY 2-3.4: Infill Development – *Support infill development on vacant and underutilized land in Fremont’s neighborhoods, particularly where there are vacant lots or parcels that create “gaps” in the urban fabric and disrupt the continuity of a neighborhood. Such development should respect the scale and form of surrounding properties.*

COMMUNITY CHARACTER POLICY 4-3.7: Massing and Scale – *Ensure that the massing and scale of new development, additions, and alterations reflects its context and compatibility with adjacent structures. Require transitions in scale where higher density development abuts lower density development. Overpowering contrasts in scale and height should be avoided by requiring taller buildings to step down or recess as they approach lower density areas. Consider privacy impacts on nearby side yards and back yards [that] should be avoided through building design and orientation.*

Analysis: The project site is located within an existing developed area and would further the City’s General Plan policies that emphasize infill development. The proposed project would provide new housing opportunities on an underutilized infill lot where existing utilities and infrastructure adequately support such development. Over the course of several months, the applicant’s design team worked closely with staff to refine and reshape its development plans to produce a project that would be attractive and well-articulated, despite the challenges of the existing site conditions and constraints (namely retaining the existing evergreen ash tree in place and developing a master plan that includes the entire church property). The project was designed to include future development of the church property as a latter phase which would ensure proper and orderly development in a planned manner. In addition, the proposed project design would be compatible with the character of the surrounding neighborhood with a precise plan showing proper orientation and placement of homes. These project features would meet the design and infill policies of the General Plan.

LAND USE POLICY 2-2.5: Zoning and Subdivision Regulations - *Use zoning and subdivision regulations to direct the city's growth, ensure sufficient opportunities for new development, improve Fremont's quality of life, create complete neighborhoods, reduce nuisances, achieve compatibility between adjacent properties and uses, address land use conflicts, and protect the health and safety of residents, visitors, and workers.*

IMPLEMENTATION 2-2.5.F: Planned (P) District - *Use Planned Development (P) zoning to provide flexibility in application of the zoning code, encourage more desirable site planning outcomes, or achieve particular mixes of land uses or unit types. Within mixed use areas, P District zoning may be used to indicate sites or portions thereof on which housing or commercial is a required land use.*

COMMUNITY CHARACTER POLICY 4-3.14: Planned Districts - *Allow Planned Districts (PDs) as a way to achieve design excellence and innovation and to respond to site constraints and natural features. Planned districts—or PDs—allow development to depart from conventional zoning and street standards, land uses and/or dwelling types in order to achieve a product that is more attractive and sustainably designed. The overall number of housing units or square footage is determined by zoning, but the distribution or density of those units around the site can vary from traditional standards. This is often achieved by clustering development on one part of a site and leaving the rest as open space. For instance, a large site which includes a flat area and a hillside may have a single zoning designation. By building more densely on the flat area, the hillside can be preserved without reducing the overall number of units that may be built on a site. This can encourage design solutions that are more responsive to natural terrain and nearby land uses.*

Analysis: The project would be consistent with the above stated policies and implementation measure because use of Planned District zoning would be appropriate in this location to facilitate the appropriate blending of residential land use densities, provide compatibility between existing and proposed uses and create a desirable development with a master-planned precise layout. The 4.6 -acre site, at the corner of the arterial parkway, Fremont Boulevard, and residential collector street, Beard Road, would be suitable for and of sufficient size to be planned and developed in a manner consistent with the purpose and application of Planned District zoning.

MOBILITY POLICY 3-2.3 Pedestrian Networks - *Integrate continuous pedestrian walkways in Fremont's City Center, Town Centers, residential neighborhoods, shopping centers, and school campuses. Place a priority on improving areas that are not connected by the City's pedestrian network, with the objective of making walking safer, more enjoyable, and more convenient.*

Analysis:

Public pedestrian facilities do not currently exist or are incomplete and inadequate along the project frontage. With development of the project, the public would greatly benefit from the construction of new public sidewalks (with tree planters and street lighting) along the project's frontage that would connect the existing public sidewalk terminuses on Fremont Boulevard and Beard Road. The project would also include an internal pedestrian paseo system that would link public sidewalks to the internal homes, common open space and parking areas. These improvements would implement this policy of creating a continuous, safe and enjoyable walkable environment in conformance with the General Plan.

SAFETY POLICY 10-8.1: Site Development Acceptable Noise Environment - *A noise environment which meets acceptable standards as defined by the State of California Building Code and local policies contained herein.*

IMPLEMENTATION 10-8.1.A: Noise Standards - *New development projects shall meet acceptable exterior noise level standards. The “normally acceptable” noise standards for new land uses established in Land Use Compatibility for Community Exterior Noise Environments shown in Figure 10-11 shall be used as modified by the following:*

The goal for maximum acceptable noise levels in residential areas is an Ldn of 60 dB(A). This level shall guide the design of future development, and is a goal for the reduction of noise in existing development. A 60 Ldn goal will be applied where outdoor use is a major consideration (e.g., backyards in single family developments and recreation areas in multifamily projects). The outdoor standard will not normally be applied to small decks associated with apartments and condominiums, but these will be evaluated on a case-by-case basis. When the City determines that providing an outdoor Ldn of 60 dB(A) or lower cannot be achieved after the application of appropriate mitigations an Ldn of 65 dB(A) may be permitted at the discretion of the City Council.

Analysis: The General Plan requires that a noise study compliant with the California Building Code’s methodology be prepared and submitted to the City prior to the issuance of a permit for all new housing exposed to an exterior Ldn of 60 dB(A) or greater. The major noise source affecting the project site would be traffic noise levels from the primary arterial road along the project frontage, Fremont Boulevard. A project noise study was completed by an acoustical consultant, Charles M. Salter Associates, Inc. Estimated future noise levels were found to fall into the normally acceptable, conditionally acceptable, and unacceptable ranges (without mitigation). Preliminary recommendations were included in the noise study to mitigate interior noise to an acceptable level, including installing windows and doors with sound insulation ratings in the range of Sound Transmission Class (STC) of 35 to 40 for units that would be constructed adjacent to Fremont Boulevard and an STC of 30 to 34 for units adjacent to Beard Road. Generally, exterior outdoor noise levels (i.e., at private yards and common open spaces) were estimated to be at or below and Ldn of 65 dB(A) due to their distance of separation from and/or orientation to Fremont Boulevard (i.e., not within a line of sight). This would include the centralized common open space area where the existing evergreen ash tree would be retained in place and at second-floor decks that would be oriented opposite (or away) from Fremont Boulevard. The use of sound walls would be incorporated at side yards between units along Fremont Boulevard and Beard Road if during final design review of subdivision improvements and building permit review exterior noise levels are determined to exceed an Ldn of 60 dB(A) at the proposed common open space. An Ldn of 65 dB(A) could be allowed at the discretion of the City Council. As permitted under the General Plan, however, the outdoor noise standard would not normally be applicable to the second-level decks within the homes. With implementation of the recommendations contained in the noise study and incorporated in the Mitigated Negative Declaration prepared for the project, noise impacts would be adequately mitigated consistent with the General Plan.

Zoning Regulations

The project site is currently zoned R-3-23, R-3 Multi-family Residence District (2.8 acres) and R-1-6, Single-family Residence District (1.9 acres). Pursuant to FMC Section 8-21811 (Planned District), the applicant has requested a rezoning to Preliminary and Precise Planned District to allow blending of

residential land use densities; varied lots sizes and home configurations; orderly development in phases; and preservation and enhancement of an existing evergreen ash tree. The Planned District process would provide a means of effectuating desirable development due to the certain conditions and features applicable to the site.

The proposed precise plan for the project has been designed in a manner most closely resembling the R-3, Multi-Family Residence zoning district. The flexibility is permitted with the adoption of a Planned District zoning district, whereby modifications to development and site standards would be allowed to achieve a superior project design and accommodate increased density through site plan and architectural approval. The following table illustrates how the proposal would be consistent with the development standards typically applicable to a new residential development in the R-3 District:

<i>Development Standard</i>	<i>R-3 Zoning District Requirement</i>	<i>Proposed Planned District</i>
Front Setback	20 feet ¹	15 feet
Rear Setback	10 feet	10 feet
Interior Side Setback	10 feet; 20 feet adjacent to single-family homes	10 feet adjacent to existing multi-family to the east; 15 feet to rear yards of the three single-family homes to the north
Building Height	52 feet; however, 30 feet adjacent to single-family homes	35 to 38 feet as measured from grade to top of roof ridge
Maximum Lot Coverage	50%	32%
Common Open Space	3,400 s.f.	5,500 s.f.
Private Open Space (balconies)	60 s.f.	100 s.f.

As the table above shows, the project would generally conform to several of the applicable R-3 zoning standards. For those standards with which the proposed project would not comply, as recommended through site plan and architectural approval, further analysis is provided below.

Front Setback: As described above, the R-3 District allows a reduction in the front yard setback when the project would foster a pedestrian-oriented environment or neighborhood setting. Staff supports the proposed setback reduction on the grounds that the design would provide the project a more pedestrian-friendly feel by bringing the units and their front entries closer to the sidewalks while relegating parking facilities to the interior of the site. In staff's opinion, the proposed reduction would both contribute to an attractive residential environment along the two streets and increase safety in the neighborhood by bringing the active living space of the end units closer to the public realm, thereby giving the project a strong street presence. Additionally, the existing neighboring development northwesterly across Beard Road would not be affected as it was not designed to face Beard Road (a masonry wall and backup landscaping exists on that side of Beard Road). To the south there is the arterial road, Fremont Boulevard, and commercial development.

¹ FMC Section 8-2754(d)(1) allows the front and street side setbacks to be reduced below their respective limits in order to foster a pedestrian-friendly environment or neighborhood-scaled setting.

Interior Side Setback and Building Height Limitations: There are three existing single-family homes located on Milton Street on large lots of 10,000 square feet adjacent to the north perimeter of the project site. A reduction of the side yard setback from 20 feet to 15 feet and a building height increase from 30 feet to approximately 38 feet adjacent to these homes would be acceptable because the project includes homes that are single-family in character and there would only be four homes (specifically, Plans 2, 3 and 4) at approximately 38 feet in height situated 15 feet from the perimeter property line shared with the three existing homes on Milton Street. In addition, the three existing homes contain rear yards that measure a depth from 35 feet to 40 feet (existing home to rear lot line), which provides for a total building separation of more than 50 feet from the proposed homes within the development. Due to the setting of the three neighboring single-family homes, and the fact that the homes in the proposed project would be similar in single-family character and would be provided with a 15-foot separation from the perimeter property line, the reduction to the setback and increase in height would be acceptable.

Parking

The table below identifies the minimum parking requirement for the proposed project pursuant to FMC Section 8-22003 (Required Parking Spaces by Type of Use) and whether the project would comply.

<i>Land Use</i>	<i>Parking Ratio/Standard</i>	<i>Spaces Required</i>	<i>Spaces Provided</i>	<i>Degree of Compliance</i>
Multi-Family Dwellings w/ Two or More Bedrooms	1.5 spaces for residents per unit; 0.5 spaces for guests per unit	95 for residents; 32 for guests	126 for residents (garages); 22 for guests	Exceeds for residents; acceptable for guests

As the table above shows, the project would exceed the minimum parking requirement for resident parking by 31 spaces by providing each unit with a two-car garage. However, the project would only provide 22 on-site spaces for guests where 32 spaces would be required. As part of the project, the applicant would be providing substantial street improvements on Beard Road, which would allow ample on-street parking on both sides (currently the Beard Road project frontage provides on-street parking which appears is not used). The on-street parking on Beard Road that would be available along both sides would be within easy walking distance to and from the project site. Per FMC Section 8-22003(a)(2)(d), a reduction for guest parking may be granted due to the availability of on-street parking. As ample on-street parking would be available along Beard Road, the guest parking reduction would be warranted.

Affordable Housing Ordinance

Pursuant to the City's Affordable Housing Ordinance (AHO), the applicant has proposed payment of an in-lieu fee with construction of Phase I of the development rather than provide below market rate (BMR) units on-site. The AHO specifies that payment of in-lieu fees is an acceptable alternative to providing BMR units on-site with the project. The final fee amount would be calculated based on individual home square footages with the fee in effect at the time of issuance of building permits. Prior to building permit issuance of the first home in Phase I, the applicant may seek approval of a different alternative as permitted under the AHO if timely approved by the City Council. Future development of Phase II would be required to comply with the AHO in effect at the time.

Design Analysis

Site Planning/Open Space Design

The centerpiece of the site design is preservation of an evergreen ash tree within a proposed centralized open space that highlights the entrance into the development and provides a common area for enjoyment by future residents. Moving outward, homes would define the edges of the open space internally connected by pedestrian paseos to the public sidewalks along Fremont Boulevard and Beard Road. A total of 16 homes would be oriented to face the public street along Beard Road and 28 homes oriented to face interior paseos (rear-loaded units, i.e., front door facing street). Four front-loaded homes (facing the internal private street) would be adjacent to Fremont Boulevard. While these homes would not have their front doors face the arterial road, they would be designed with articulated rear façades and semi-private raised rear patios that would be oriented towards Fremont Boulevard. The remaining 15 homes would be front-loaded facing the internal private street along the easterly perimeter property line served by an internal monolithic walkway that connects to the pedestrian paseo system and then public sidewalks.

As noted above, the site plan was designed to preserve the evergreen ash tree and provide a common open space around the tree, enhancing it as the major feature of the site. An arborist would be retained to assist during preparation of construction documents to ensure that proposed site design features would be compatible with the desire to preserve the tree. Additional enhancements to this community entry include special paving at the entry and at a minor private through street flanking the southern side of the open space. However, a condition is recommended that would require the applicant to extend this special paving from the entry all the way to the private through street. Other design amenities would include low walls, masonry columns, fencing and a gathering space for the enjoyment of future residents. Plants would be specifically selected to be compatible with the needs of the ash tree and provide an attractive and interesting foreground planting.

Lastly, generously landscaped double-loaded paseos would provide an attractive connection from Fremont Boulevard to the community entrance and to the interior residences beyond. This multi-function space would not only provide an attractive pedestrian connection to residences front doors but would also provide stormwater treatment areas that would be integrated into the landscape design to become an attractive feature of the project.

The site plan has been carefully and intentionally designed to respect the surrounding character of the neighborhood and retention of the evergreen ash tree. It should be noted that the applicant has been very responsive to staff's concerns and diligently worked with staff on an acceptable layout that would achieve these goals. The initial design contained one product type with rear-loaded units and no consideration of the evergreen ash tree (Informational 2). After several plan iterations, the current plan was developed which the applicant believes would be the most responsive in creating a well-designed development of diversity and interest for the site.

Architecture

The applicant proposes to construct two different types of homes which would include 44 rear-loaded units along Beard Road and the interior paseos and 20 front-loaded units within the interior of the development, including four along Fremont Boulevard. The homes would range from about 2,500 square feet (Plan 1) to 2,700 square feet (Plan 5), including garage space. The vernacular styles of the

homes exemplify subtle Spanish Colonial, Craftsman, Cottage, Shingle, and Bungalow attributes in their designs. Architectural variety to create interest and individuality would be formed with the inclusion of five different home plans, with each of the five home plans including variations of the subtle vernacular styles, as follows:

- The Spanish Colonial plan would feature smooth stucco walls, recessed windows (having the appearance of thick walls), wrought-iron looking metal detailing and railing, wood shutters, heavy-looking rounded front doors, and gabled roofs with concrete s-tiles.
- The Craftsman plan would feature a combination of cementitious siding, shingle and stucco walls, porches with tapered columns or pedestals that extend to the ground level, stone veneers, wood railing at porches and balconies, and gabled roofs with flat concrete tiles, exposed roof rafters and outriggers.
- The Cottage plan would feature stucco walls, balconies of wood railing, wood shutters, wood potshelves, some recessed windows, and gabled roofs with flat concrete tiles.
- The Shingle plan would feature cementitious shingle and stucco walls, wood trellises and brackets, wood window sills, and gabled and dormer roofs with flat concrete tiles.
- The Bungalow plan would feature stucco walls with stone veneers, vertical siding at roof gables, wood window sills and brackets, balconies with wood railing, and gabled roofs with flat concrete tiles.

The project architect worked with staff to enrich the architecture of the homes by reshaping roofs and breaking up rooflines, reducing third floor areas and massing, incorporating wood-clad garage doors, further articulating walls, and adding additional enhanced elements. Overall, the proposed design of the homes would be compatible with the existing character of the neighborhood. A colors and materials board was prepared showing earth-tone beige, red, brown, and cream colors that would be appropriate with the architectural styles of the homes. To that end, however, staff recommends that the applicant be directed to continue to work with staff on further refinements, which include (Conditions E-1 through E3, Exhibit E):

- The final home designs and their siting on Lots 2 and 3 adjacent to the evergreen ash tree proposed for retention within the common open space should be subject to the review and approval of the Community Development Department. The final design of these two specific homes would be oriented towards the public street (Beard Road) with high-quality architectural detailing on all sides. The homes would be reviewed to ensure that their design and placement create a balanced street amongst the other homes proposed along Beard Road. This would maintain a consistent street front and identity, while not compromising the design character of the homes at the rear, adjacent to the common open space.
- All home façades, including side and rear façades, that face streets (public and private), common open space and paseos should be architecturally enhanced to create high-quality attractive homes. The applicant should continue to work with the Community Development Department on the further refinements to the design of the homes during the building permit review process.
- All garage doors should be of high-quality and material, such as wood or a wood-clad construction.

Evergreen Ash Tree

The evergreen ash tree (Tree# 137) is the largest diameter tree on the site with two trunks measuring 24 inches and 35 inches. Due to the collective size of the tree's trunks – a cumulative 59 inches at diameter breast high (DBH) – and its general health and appearance, the tree meets all of the following criteria pursuant to FMC 4-5112 for designation as a landmark tree:

- a. The DBH exceeds the minimum 54 inch requirement;
- b. The tree's structure and character exemplify its species;
- c. The tree is free, or can practicably be made free, of any structural defect that would pose a threat of either damage to persons or of substantial damage to property;
- d. The tree has substantial aesthetic appeal;
- e. The probability that the tree will survive more than five years from the date of landmarking is at least 50 percent.

While the tree is not currently classified as a "Landmark Tree," as noted above it would meet the criteria under the City's Tree Preservation Ordinance to be qualified and protected. Accordingly, the site plan would preserve this tree in place in a designed common open space that not only preserves it but would highlight it as the major focal element of the community entrance.

The City Landscape Architect recommends that the evergreen ash tree (Tree #137) be preserved as part of this project and that City Council so designate it as a Landmark Tree at a future date.

Tree Preservation, Removal and Mitigation:

A tree report was prepared in April 2012 by HortScience for this project. A total of 32 trees were evaluated representing nine species. Of the 32 trees, 12 trees or 38 percent of the population were camphor, five trees (16 percent) were mulberry and the balance of the tree species were represented by only one or two trees each, of which, the most notable are evergreen ash, eucalyptus and Mexican fan palm. The majority of the trees (41 percent) were rated in fair condition, 11 trees (34 percent) were rated good and eight trees (25 percent) were rated poor. Evergreen ash (Tree #137) was rated in good condition. Seven of the 32 trees evaluated are not regulated by the Tree Preservation Ordinance due to their size, species or location (off-site). While the evergreen ash tree would be retained in place, staff recommends allowing the remaining 24 trees to be removed because they would substantially impact the placement of proposed homes and street improvements. The removal of the trees would not adversely affect the appearance of the subject property as new trees and landscaping would be installed. The project would be required to pay an in-lieu fee for the loss of 24 protected trees in order to comply with FMC Sections 4-5107 (a) and 4-5111 (c).

Green Building Technologies

The applicant has submitted a "Build it Green" checklist for the proposed project. The goal for the project is to achieve 78 points on the checklist as proposed by the applicant. The project would also be subject to CalGreen, the State's Green Building Code, as well as local green building provisions.

Circulation /Access Analysis

The project is located in the northeastern quadrant of the intersection of Fremont Boulevard and Beard Road. Fremont Boulevard, fronting the project site, is a six-lane divided major arterial within State (Caltrans) right-of-way as part of the I-880/Alvarado Boulevard/Fremont Boulevard freeway

interchange. Beard Road is a two-lane undivided residential collector road. Vehicular access to the project site would be provided by two new driveways on Beard Road. Pedestrian access would be provided by new public sidewalk on both Beard Road and Fremont Boulevard.

On-site vehicle circulation would be provided by a series of private streets and auto courts. The primary private collector street would form a loop within the development and connect to Beard Road at two different points. The private collector street would be designed as a hybrid between a minor residential private street and a private vehicle access way (PVAW), a type of a private street that is typically used in this form of housing development.

Sidewalks and walkways would be constructed to provide pedestrian connections to and from the proposed residences. A monolithic four-foot wide sidewalk would be provided along one side of the primary private collector street for the majority of its length, except for sections where garages of the adjacent homes would be located directly adjacent to the private street. Where monolithic sidewalk would be used, “rolled curb” would be constructed to eliminate conflicts between the need for multiple driveway cuts and pedestrian accessibility requirements. The front entrances of the homes would be located opposite of the private street and auto courts and connect to either paseos constructed between the rows of homes or new public sidewalk constructed along both Fremont Boulevard and Beard Road.

The private street and auto courts would be constructed as part of the subdivision improvements and a homeowners association would be established to maintain the required easements.

Street Right-of-way Improvements

The majority of street improvements along the project’s Beard Road frontage were completed as part of a previous City Public Works Project (PWC 7818). Existing roadway improvements along the project’s Fremont Boulevard frontage and at the corner of the intersection of Fremont Boulevard and Beard Road are limited to roadway pavement and asphalt concrete dike constructed at the edge of the roadway.

The following outlines the additional street right-of-way dedication and improvement requirements for the project.

- Fremont Boulevard – The applicant would be required to dedicate right-of-way along the project’s Fremont Boulevard frontage such that the half-street right-of-way width of Fremont Boulevard is sixty five feet (65’). The applicant would install pavement, curb, gutter, an eleven foot (11’) separated sidewalk/landscape strip and storm drain improvements. The applicant would also be responsible for the relocation of existing street lights, as required, such that the minimum required setback from the pole to the new adjacent face-of-curb is provided.
- Beard Road – The applicant would be required to complete the street improvements along the project’s Beard Road frontage. Required street improvements would include, but are not limited to: construction of separated sidewalk, driveways and drainage improvements, and installation of street lights, landscape and street trees. The applicant would also be responsible for the removal and replacement of damaged curb, gutter and sidewalk along Beard Road per City Standard Details.
- Corner of Fremont Boulevard and Beard Road – In order to facilitate intersection improvements and development of the adjacent parcel, the City would vacate and sell approximately 747 square feet of roadway right-of-way at the corner of Fremont Boulevard and Beard Road to the applicant (a general

vacation that only requires approval by the City Council). As a condition of the vacation, the applicant would be responsible for the construction of complete street improvements at the northeast corner of the Fremont Boulevard and Beard Road. Required improvements would include, but are not limited to relocation of street light poles and the installation of pavement, curb, gutter, sidewalk, curb ramps and storm drain improvements. The applicant would also be responsible for removal of the existing joint utility pole and under-grounding of all associated equipment and overhead lines near the corner of Fremont Boulevard and Beard Road.

Grading and Drainage

The project site is currently occupied by a church, single-family residence and commercial roadside market. The existing topography slopes gently across the site with elevations varying from 30 feet above mean sea level at the eastern boundary to 28 feet along the project's Beard Road frontage. On-site grades are noticeably lower than that of Fremont Boulevard at the southwestern corner of the parcel. Grading for the project would consist of raising the southern portion of the parcel to match existing grades along Fremont Boulevard; excavating lots to construct the various building pads; contouring the private streets, yards and open space areas for positive drainage; and installing multiple bioretention area for storm water treatment. Short retaining walls (of less than three feet in height) would be constructed along the subdivision's northern and eastern boundaries adjacent to the existing residential developments.

The project civil engineer estimates project grading to include 5,000 cubic yards of cut and 35,000 cubic yards of fill, for a total of 35,000 cubic yards of grading. The source site and truck route for the import material would be subject to review and approval of the City Engineer.

Water Service and Water System

The applicant proposes to install an on-site public water main with a looped connection to the existing water main in Beard Road. On-site fire hydrants, irrigation for common and private irrigation and the majority of the residential units would be served from the new on-site public water main. Six of the units would be served from water meters installed along the project's Beard Road and Fremont Boulevard street frontages. Preferably, individual water meters for all residential units would be located adjacent to the driveway of each unit. However, staff understands that the competing interests for area needed for utilities, buildings, and street trees that may instead result in the use of banked water meters placed within common landscape areas or appropriate water line easements internal to the site.

Urban Runoff Clean Water Program

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Regional Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and minimize the amount of stormwater that enters the public storm drain system. This project would be required to comply with the NPDES Municipal Regional Stormwater Permit by incorporating stormwater management measures into the project design.

The project would meet the stormwater management requirements by constructing multiple bioretention areas. In order to conform to the quantitative performance criteria and Low Impact Development requirements of the NPDES Municipal Regional Stormwater Permit, the project may be required to incorporate additional best management practices to manage stormwater runoff. The stormwater management plan would be integrated into the storm drain design for the project and would be subject to review and approval of the City Engineer prior to building permit approval.

Geologic Hazards

The project site is within an area of potential earthquake induced liquefaction on the official Seismic Hazard Zone Newark Quadrangle map released by the State Geologist. In accordance with the State law, the project geotechnical engineer prepared a seismic hazard report. The report was reviewed and approved by the City and filed with the State Geologist in November 2012. The project improvements and building construction would be required to conform to the recommendations of the seismic hazard report.

FINDINGS FOR APPROVAL

In order to approve the proposed Preliminary and Precise Planned District, P-2012-243, Vesting Tentative Tract Map No. 8177, Private Street and Preliminary Grading Plan, the project must be found consistent with the General Plan and Zoning Ordinance. Based on the above analysis, staff finds the proposed Preliminary and Precise Planned District, P-2012-243, Vesting Tentative Tract Map 8177, Private Street and Preliminary Grading Plan are in conformance with General Plan and Zoning Ordinance and recommends the following findings:

Planned District Findings:

- (a) ***The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the district*** in that there is nothing unusual about the subject site and no known significant environmental liabilities which could significantly delay the completion of the project;
- (b) ***Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability, and the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts*** in that the project would provide a private street and paseo network for vehicular and pedestrian access, respectively, and would be part of a homeowner's association which would be responsible for maintaining the architecture, landscaping, stormwater treatment facilities and other on-site improvements in a fully operational and aesthetically pleasing manner. In addition, the project design would minimize impacts on adjacent development through the provision of generous landscaped setbacks and an attractive street presence that orients certain units toward the public street sidewalks;
- (c) ***The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the Planned District*** in that the number of estimated trips generated by the project would increase existing traffic volumes on the adjacent roadway of Fremont Boulevard by less than 2.6 percent, and that the proposed private street network built with the development would afford suitable and adequate vehicular access and pedestrian circulation for the project;
- (d) ***The proposed exceptions from standard ordinance requirements are warranted by the design and amenities incorporated into the precise site plan, in accord with adopted policy of the Planning Commission and City Council*** in that that the applicant has requested a rezoning to Preliminary and Precise Planned District that would foster the objectives of the project, which include blending of residential land use densities (or a density transfer); varied lots sizes and home configurations;

orderly development in phases; and preservation and enhancement of an existing evergreen ash tree. The Planned District process would provide a means of effectuating desirable development due to the certain conditions and features applicable to the site;

- (e) ***The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development*** in that the adjacent lands to the north, east and west all are zoned for and developed with single-family or multi-family uses, and the project design would be fully independent through the provision of its own private street so it would not conflict with adjacent improvements or land uses, or alter or otherwise impact existing circulation routes;
- (f) ***The P district is in conformance with the General Plan of the City of Fremont*** in that the proposed blended project density of 13.7 units per net acre would be consistent with the site's General Plan land use designations of Medium Density Residential (14.6-29.9 du/ac) and Low Medium Density Residential (8.8-14.5 du/ac) as stated in the staff report, and components of the project would comply with the applicable goals and policies of the Land Use, Community Character, Mobility and Health and Safety Chapters of the General Plan; and
- (g) ***Existing utility services serving the area are adequate for the population density being proposed*** in that such facilities exist and no additional off-site service mains would be needed to accommodate the project.

Vesting Tentative Tract Map No. 8177 Findings:

Based on the analysis of the project contained in the accompanying staff report, the proposed Vesting Tentative Tract Map is in conformance with the General Plan, FMC Section 8-1418, and the Subdivision Map Act, and none of the following findings can be made:

- (1) *The map fails to meet or perform one or more of the requirements or conditions imposed by the Subdivision Map Act and Chapter 1 of the Zoning Code (Subdivisions);*
- (2) *The proposed subdivision, together with the provisions for its design and improvements, is not consistent with applicable general and specific plans;*
- (3) *The site is not physically suitable for the type or proposed density of development;*
- (4) *The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;*
- (5) *The design of the subdivision or the type or improvements is likely to cause serious public health problems; and*
- (6) *The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.*

Preliminary Grading Plan Findings:

- (a) ***The proposed grading plan will not have an appearance, due to the grading, excavation or fill, substantially and negatively different from the existing natural appearance*** in that it is designed to create drainage patterns which respect the existing topography adjacent to the project site, and very minimal retaining walls would be needed to achieve level building pads and positive drainage into the on-site stormwater treatment facilities and off-site public storm drain system;
- (b) ***The proposed project will not result in geologic or topographic instability on or near the site*** in that all graded areas would be engineered with fill material compacted in accordance with the specifications of the Grading, Erosion and Sedimentation Chapter of the Fremont Municipal Code and Project Geotechnical Study to provide a safe, stable environment for the proposed use of the land for residential development and for the adjacent properties abutting the project site;
- (c) ***The proposed project will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited in any public right-of-way*** in that: (a) no streets or sewer, water, or storm drain lines are located within the building area of land to be developed; (b) the project would be designed so as not to augment runoff onto any adjacent properties; (c) the applicant would be required to implement erosion control measures during grading and construction activities to prevent sediments and/or debris from entering the public storm drain system; and (d) the applicant would be required to repair and/or replace any public improvements that are damaged during construction of the project;
- (d) ***Conformity, where applicable, to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology will be achieved*** in that all grading, foundations and structures would be engineered and designed in conformance with applicable geotechnical and soil stability standards of the California Building Code, and in accordance with the recommendations of the project geotechnical study; and
- (e) ***The proposed project will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont*** in that the final topography that would be established upon completion of the grading would be designed to be geologically stable and suitable for residential development, to capture all runoff from the site and channel it to the storm drain system, and to prevent erosion and sediments from entering the street and storm drain system.

Private Street Finding:

The most logical development of the land requires private street access because if a standard public street were required with on-street parking, sidewalks and landscape planters along both sides of the street, it would consume so much of the land that the applicant would be forced to consider taller buildings, special paving and treatment of streets would not be permitted, and there would be added difficulty in creating higher densities.

Parking Reduction Finding:

On-street parking on Beard Road would be available along both sides of the project frontage within easy walking distance to and from the project site. Pursuant to FMC Section 8-22003(a)(2)(d), a reduction for guest parking is warranted due to the availability of on-street parking as ample on-street parking would be available along Beard Road.

Tree Removal Finding:

As discussed in the staff report, the project would require the removal of 24 trees located in various areas of the site. The removal of the trees is consistent with the City Tree Preservation Ordinance criteria for removal because the trees substantially impact the placement of the proposed detached residential units and street improvements. The removal of the trees would not adversely affect the appearance of the subject property as new trees and landscaping would be installed. This project would comply with the ordinance required mitigation for the loss of the trees with payment of an in-lieu fee for the removal of the 24 trees.

The findings above are also contained in Exhibit "E" enclosed.

CITY FEES

This project would be subject to citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees would be calculated and paid at the fee rates in effect at the time of building permit issuance. The applicant has indicated a preference to pay the Affordable Housing in-lieu fee rather than construct below market rate units on-site for Phase I of which would developed as part of the first final map. The applicant may elect to defer payment in accordance with the City's Impact Fee Deferral Program. The applicant may also elect to seek approval of a different affordable housing alternative if such proposal is requested and approved prior to issuance of the first building permit for a home within a final map.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), an Initial Study (Informational Item 1) and Draft Mitigated Negative Declaration (Exhibit "A") have been prepared for this project. The environmental analysis identified concerns regarding potential significant impacts to air quality, biological resources, and noise. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to less-than-significant levels. A summary of the measures include the following: dust control measures; biological surveys; and, indoor and outdoor noise mitigation. These mitigation measures are included as conditions of approval for this project and in the Mitigation Monitoring Plan included as part of Exhibit "A."

PUBLIC NOTICE AND COMMENT

Public hearing notification is applicable. A total of 390 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on January 11, 2013. A Public Hearing Notice was published by *The Argus* on Saturday, January 12, 2013.

In addition, a large project courtesy sign was erected at the corner of Fremont Boulevard and Beard Road to inform the public of the pending proposal. The applicant conducted a neighborhood meeting on December 17, 2012. According to the applicant, approximately 15 neighbors attended and the project was generally well received with a few concerns raised regarding impacts on traffic, schools, and views. Comments received on the project will be forwarded to the Planning Commission

ENCLOSURES

Exhibits:

- Exhibit "A" [Draft Mitigated Negative Declaration, Mitigation Monitoring Plan](#)
- Exhibit "B" [Planned District Rezoning Exhibit of P-2012-243](#)
- Exhibit "C" [Preliminary and Precise Site Plan, Architecture, Landscape Plans](#)
- Exhibit "D" [Vesting Tentative Map No. 8177, Private Street, Preliminary Grading Plan](#)
- Exhibit "E" [Findings and Conditions of Approval](#)

Informational Items:

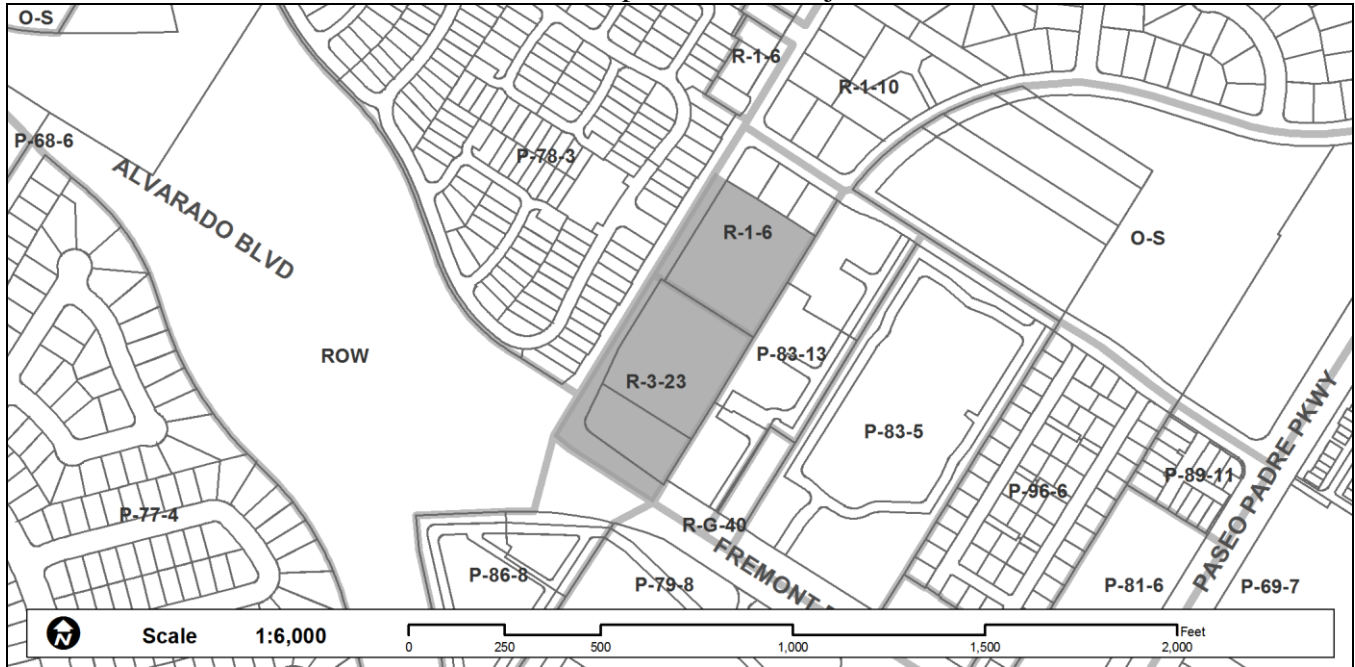
- Informational 1 [Initial Study](#)
- Informational 2 [Initial Site and Building Design Plans](#)
- Informational 3 [Public Comments](#)

RECOMMENDATION

1. Hold public hearing.
2. Recommend that the City Council adopt the Draft Mitigated Negative Declaration and Mitigation Monitoring Plan and find this action reflects the independent judgment of the City of Fremont.
3. Recommend that the City Council find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use, Mobility, and Safety Chapters as enumerated within the staff report.
4. Recommend that the City Council find the Preliminary and Precise Plans as depicted in Exhibit "C," (Precise Site Plan, Architectural Elevations and Floor Plans, and Landscape plans), fulfills the applicable requirements set forth in the Fremont Municipal Code.
5. Recommend that the City Council grant a parking reduction of ten spaces for guest parking pursuant to FMC Section 8-22003(a)(2)(d), as described in the staff report, due to the availability of ample on-street along Beard Road.
6. Recommend that the City Council introduce an ordinance approving a rezoning of the entire project site from R-3-23, R-3 Multi-family Residence District and R-1-6, Single-family Residence District, collectively to Planned District P-2012-243, as depicted on Exhibit "B" (Rezoning Map), and approving the Preliminary and Precise Plans as shown on Exhibit "C," (Precise Site Plan, Architectural Elevations and Floor Plans, and Landscape plans) based upon the findings contained in this report and subject to the conditions of approval set forth in Exhibit "E."

7. Recommend that the City Council find that the proposed subdivision, private street and preliminary grading plan as shown in Exhibit “D,” Vesting Tentative Tract Map No. 8177, Private Street, and Preliminary Grading Plan, are consistent with the goals, policies and implementation actions of the City of Fremont’s General Plan. Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in this report and Exhibit “E.”
8. Recommend approval of the proposed removal and mitigation for 24 protected trees pursuant to the City’s Tree Preservation Ordinance, based upon findings and conditions in Exhibit “E.”

Existing Zoning Shaded Area represents the Project Site



Existing General Plan Shaded Area represents the Project Site

